A Preface to American Political Theory

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In his carefully titled *A Preface to American Political Theory*, Donald S. Lutz makes clear at the outset that his principal aim is to encourage the creation of a genuine academic “discipline” called “American Political Theory.” “A discipline,” he writes, “is a joint enterprise”—what Stanley Fish might call an “interpretive community”—of a number of people, most of them, presumably, academics and scholars, “who have undergone a certain intellectual formation so that they understand the common questions defining the enterprise [and] have a comprehensive familiarity with the relevant literature and materials.” In addition they must know “how to use the methodologies”—and the use of the plural is crucial—“appropriate for advancing the literature” (2).

Still, the crucial question is exactly what a student of American political theory, as distinguished, say, from “Americanists” or “political theorists” more generally, should focus on. The answer appears to lie in both the recognition and a Whitman-like embrace of “the mélange” (112) revealed by the genuine complexity of American political life. This includes real-time diagnoses of our political situations and various suggestions as cures for what are deemed social or political ills. When Lutz writes that “it would seem perverse to focus American political theory upon a study of writings by a tiny elite” (152), he is not only making a profound methodological point but also indicating his almost Jeffersonian belief that “here the people [should] rule.” This means that one must therefore understand the contributions that all sorts of people have made, for good and for ill, to politics in America. To be sure, one might well discover that much nonelite thought is a harsh critique of the extent to which various elites, whether defined in terms of class, gender, or race—or, most likely, the intersection of all three—in fact dominate the actual decision-making process. That does not, however, mean that it is not a necessary (and proper) part of the discipline of American political theory.
Moving to the current moment, almost thirty years after Lutz wrote his book, we might wonder whether Senator Bernie Sanders is a card-carrying member of “the American elite.” But it would be hard to understand contemporary American politics without paying attention to his constant reminders that the system is “rigged” against the American working class in favor of elites. Consider also, though, the possibility that any serious contemporary course on American political theory should also take into account such figures as Steve Bannon and other architects of the Trumpian moment in American politics, even if not necessarily any purported writings (or even tweets) of Donald J. Trump himself. At the same time, Lutz seems to suggest, perhaps we need not pay so much attention to, say, John Rawls or Robert Nozick, even though, by any measure, they are more serious “political theorists” (and Americans to boot) than are the other abovementioned people. Why is this so?

The answer is that American political theory as a field should not concentrate on those questions that in some ways constitute the canon going back to Plato: What is the meaning of justice, for example, or what, exactly, constitutes legitimate political rule? These are universal questions. Their answers might apply to the United States but are not, essentially, about the United States. Lutz, however, explicitly indicates that the discipline he wants to bring more clearly into being involves systematic study of the actual reality of politics in America. This means paying attention to concrete political events and movements and the ways that they are understood by a wide variety of engaged Americans attempting to comprehend their situations. This also means, paradoxically or not, that “American political theory is not simply political theory written by Americans” (27). His paradigm example is de Tocqueville’s *Democracy in America*, which is, of course, the reflections of an unusually observant and analytically oriented Frenchman who made a notable trip to the United States in the 1830s and thought it important to convey the larger implications of what he saw.

Lutz’s central assertion is that “American political theory has at its center a tradition of constitutionalism” (28). It is crucial, though, that he is not really referring to “constitutionalism” in general, which might counsel beginning with Aristotle and moving on, breathlessly, to the latest works in comparative constitutional analysis by such figures as the late Walter Murphy or the very much alive Gary Jacobsohn, Tom Ginsburg, or Ran Hirschl. They differ from Lutz in folding the particularities of “American constitutionalism” into a far broader picture that requires equal familiarity with a host of other countries and their “tra-
dition[s] of constitutionalism,” which might differ in interesting and important respects from the American one. Life is short and we have to concentrate, which means, in effect, that Lutz was an early adopter of the centrality of what has come to be called American constitutional development. This requires mastery of vast domains of American history, including knowledge of the writings and speeches of many different figures in a wide variety of contexts, as exemplified in the work of such scholars as Stephen Skowronek, Keith Whittington, or Mark Graber. One must also appreciate the actualities of American institutions, some of them quite unusual or even “exceptional” when compared to those of other countries or systems.

And incidentally, one should underline what Lutz himself readily acknowledges, that “American constitutionalism” must not be restricted to the study of the single Constitution of the United States or of the national political system. As John Dinan demonstrated in his aptly named The American State Constitutional Tradition, there are at present 51 constitutions within the United States, and over our 235-year history there have been literally dozens more—each state has had just short of three constitutions during this period—and they differ from each other and, just as significantly, the US Constitution in vital ways. James Madison proudly wrote in Federalist, no. 63 that the US Constitution he helped to write excluded the people—whatever might be thought by reading the first words of the Preamble—from any role in actual governance. That all-important task was to be carried out exclusively by representatives. Yet if one looks at state constitutions from Maine to California, and to Hawaii in the mid-Pacific, one will discover that an impressive number of states include procedures for “direct democracy” that serve, for better or worse, to allow electorates to do end-runs around their perhaps sclerotic representatives. As Dinan demonstrates, adoption of the “initiative and referendum” was much debated at many state constitutional conventions, as was the possibility of “instructed” representatives in the eighteenth century. Students of American political theory have a duty to be familiar with these debates and the exceedingly different visions of American democracy—or what the national Constitution calls a “Republican Form of Government”—instantiated in these debates.

These debates might not meet the level of “high theory” under standard academic definitions. But Lutz also emphasizes the importance of studying American constitutional debate in all its forms. For Lutz, the opinions of the US Supreme Court or the Federalist essays are not dispositive sources of the true meaning of American constitutionalism.
One should recognize the degree to which Martin Van Buren is a major architect of the American constitutional order inasmuch as it was he, more than any single person, who codified, as it were, the explanation for the vital importance of what we today call partisan political parties to replace the older vision (instantiated in *Federalist*) of a polity led by “virtuous” and nonpartisan elites. He was, perhaps not coincidentally, also a primary architect of what Don Fehrenbacher called “The Slave-owners Republic,” so that Van Buren’s Democratic Party was defined very much by its commitment to white supremacy and the exclusion even of almost all free blacks from participation in American politics. So one must be aware—and accept the importance—of “the Constitution outside the courts”; this also extends to constitutional arguments made by nonlawyers and nonelites. One way that the book perhaps reveals its age is in Lutz’s relative failure to mention in such contexts figures like Frederick Douglass, Martin Luther King, or Susan B. Anthony, to mention only three obvious examples of figures who especially deserve to be part of the subject matter of Lutz’s discipline of “American political theory.” Or one might certainly want to add the leaders of Christian temperance movements who developed important constitutional arguments along the way (and ultimately prevailed, at least for a decade or so, in the proposal and ratification of the Eighteenth Amendment). Or perhaps one might even need to add unabashed defenders of white supremacy or highly restrictive immigration laws inasmuch as no one can understand the actual contours of American politics without taking them into account, however regrettable their presence may be.

But, fortunately, entry of these and other similar figures does not in the least contradict Lutz’s central message or require vast revision of his argument. “American political theory,” he writes, “is distinguished from European political theory precisely because it rests upon the work of the political class and not on the writings of an intellectual elite.” In fact, he defines as “the entire point of American political theory” its replacement of “elite dominance with popular control, to ground politics directly in human experience rather than in philosophical utopias.” One should understand the “behavior patterns” of actual Americans in terms of the actual results of “the political process rather than to force the political process into conformity with an abstraction” (110). “European political theory”—including the works of Rawls or Nozick—“is codified in books written by men who essentially stood outside the political process.” American political theory, in contrast, is produced by members of “the politically active class” (111), whoever they might be, both in what they might write down or inscribe by virtue of their
actions, such as civil disobedience. Discovering who actually is within the “political class” at a particular time and place requires sensitivity both to historically nuanced analysis and, often, quite refined empirical methods.

Donald Lutz in some ways offers us a basic syllabus for understanding American political theory, and many readers will no doubt share my own chagrin at not (yet) having read someone Lutz considers important. That is a contribution in itself. But equally important, of course, is the fact that Lutz raises a host of questions about how best to understand American politics and its formative ideas; these questions provide the basis for stimulating argument, whether in the classroom or the privacy of our own studies or homes.

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